

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
Western DIVISION

FILED

JAN 09 2013


CLERK

Shawn M. Perkins

(Enter the full name of the Plaintiff[s] in this action)

vs.

Case No. 13-5005

(To be assigned by
Clerk of District Court)

Secretary of Department of
Health & Human Services,
Honorable Kathleen Sebelius,
et al. (regarding 10/30/12
Agency File No. HHS-IHS-0328-2012)

(Enter the full name of ALL Defendant[s] in this
action. Fed. R. Civ. P. 10(a) requires that the
caption of the complaint include the names of all
the parties. Merely listing one party and "et al." is
insufficient. Please attach additional sheets if
necessary.)

COMPLAINT

- I. State the grounds for filing this case in Federal Court (include federal statutes and/or U.S. Constitution provisions, if you know them. Fed. R. Civ. P. 8(a)(1) requires a short and plain statement of the grounds for the court's jurisdiction.):

Pursuant to any and all applicable statutes and/or provisions,
Plaintiff submits this Complaint on grounds that initial
administrative claim was dismissed merely on untimeliness
issue and not facts, and the facts require objective
legal determination on unfair employment practices, as
committed by Defendants against Plaintiff involving gender
discrimination, wrongful termination, and subsequent
retaliatory actions (non-selection/rehiring of Plaintiff
for positions he is certified and qualified for), with
competent legal counsel assigned to Plaintiff herein.
by this court.

II. Plaintiff, Shawn M. Perkins resides at

703 Wambli
(street address)
Rapid City, Pennington,
(city) (county)
SD 57701 605-858-8761
(state) (zip) (telephone number)

(If more than one plaintiff, provide the same information for each plaintiff below)

III. Defendant, Honorable Kathleen Sebelius Service main office
Dept. Health & Human resides at, or its business is located at

Public Health Service - Indian Health Service
(street address)
Rockville, Montgomery,
(city) (county)
MD 20852 301-443-1869 or 301-443-1108
(state) (zip) (telephone number)

(If more than one defendant, provide the same information for each defendant below)

~~Indian Health Services
Sioux San Hospital
600 North 14th Street
3200 Canyon Lake Dr.
Rapid City, SD 57702
(605) 355-2500
Pennington County~~

- IV. Statement of claim (State as briefly as possible the facts of your case. Describe how each defendant is involved. You must state exactly what each defendant personally did, or failed to do, which resulted in harm to you. Include also the names of other persons involved, dates, and places. Be as specific as possible. You may use additional paper if necessary):

(see Attachment)

- V. Relief (State briefly and exactly what you want the Court to do for you.)

(see Attachment)

Attachment to paragraph IV of Complaint in re: Shawn Perkins, Plaintiff vs. Secretary of Department of Health & Human Services, Honorable Kathleen Sebelius, and Sioux San Hospital-Indian Health Services.

IV. Statement of claim ...):

I worked at Sioux San Hospital in Rapid City, South Dakota as a Health Technician for approximately six years from the summer of 2005 to December 2, 2011 without incident until Beverly Grimshaw was hired as Coordinator at Sioux San Hospital – Indian Health Services. Ms. Grimshaw worked at Sioux San from approximately November 2010 to December 2011 and exposed me and the three other male Health Technician employees, Shawn Cuny, Leo Eagle Bull, and Darrell Twiss working in the SDPI and SDPP departments to gender discrimination, wrongful termination, and subsequent retaliatory actions as a direct result of my having filed the prior in-house grievances, EEO claim, and resultant court suit against Sioux San Hospital as a result of Coordinator Grimshaw's actions that was decided and ruled against her and in my favor. Throughout my employment under her charge, Coordinator Grimshaw created a hostile environment during her very first staff meeting and since then through consistent threats to the male Health Technicians both in and outside of meetings, made numerous biased comments about and to male employees, in particular us Health Technicians, as well as in the presence of female employees, including implying that male Health Technicians were not as trustworthy or valuable as other female employees and so Coordinator Grimshaw would not allow the male Health Technicians to work with female clients and would instead assign female non-Health Technician employees such as her secretary to engage with female clients, commenting during staff meetings that there should be more female employees than males working at Sioux San Hospital, she would encourage segregation between males and females by closing down the Wellness Center at her whim and only allowing female employees and female clients inside in spite of the interference to the time that should also have been allotted to the male Health Technicians with both female and/or male clients; exacerbated her hostility toward me and the other male Health Technicians each time one of us filed grievances and/or claims against her for illegal employment practices; illegally terminated me without due process in retaliation by attempting to clarify me as a six-year temporary employee whose position had ended early for which I filed a lawsuit that was ruled in my favor; exhibited continuing retaliatory efforts against me beyond my December 2011 last day worked by refusing to consider me for selection and/or as a rehire in several specific positions I applied for at Sioux San Hospital that I was certified and/or fully qualified for, instead choosing to hire others who were not trained or qualified and who I've been told were pre-selected by her before the official interviewing processes even began, including friends/acquaintances and a cousin of Coordinator Grimshaw. All of the above actions by Coordinator Grimshaw and non-actions by the other Defendants caused me and my family, among other things, unnecessary mental and emotional distress (medical documentation will be provided), loss of employment, and great financial hardships (loss of income and property, defaulted loans, etc.).

Documented evidence and/or the names of all potential witnesses will be submitted by Plaintiff to this Court and the Defendants in support of the above statements after my Court appointed pro bono attorney has been assigned and if he/she so recommends.

Attachment to paragraph V of Complaint in re: Shawn Perkins, Plaintiff vs. Secretary of Department of Health & Human Services, Honorable Kathleen Sebelius, and Sioux San Hospital-Indian Health Services.

V. Relief (State briefly and exactly what you want the Court to do for you).

1. That a pro bono attorney be assigned to Plaintiff's defense at the commencement of this matter to provide competent legal representation on behalf of Plaintiff; and
2. Thereafter, the Plaintiff asks for the following relief:
 - (a) fair monetary compensation be paid to Plaintiff for loss of property/loan defaults (i.e., approximately \$4,500 total on two title loans on both family vehicles: a 2002 Chevy Impala and 2000 Ford Windstar; approximately \$1,200 total on two payday loans; and miscellaneous other items (i.e., jewelry, furniture, tools, electronics, etc.) that had to be pawned and/or sold); etc. due to loss of income, in addition to an amount equal to full-time wages/back pay, related interest, and all benefits (i.e., paid time off, job seniority, retirement investments/contributions, etc.) that Plaintiff would have maintained and earned had his employment with Defendants rightfully continued;
 - (b) appropriate compensatory damages be paid to Plaintiff for the ensuing documented medical conditions he has endured and continues to endure (emotional distress, pain and suffering, mental impairment, humiliation, being forced to withdraw kids from school athletic programs, etc. as a direct result of the illegal employment practices committed against Plaintiff, specifically by Coordinator Beverly Grimshaw, and the inactions of the other Defendants;
 - (c) That Plaintiff be rehired by Sioux San Hospital – Indian Health Services in a position he is certified and/or qualified for and a position that does not place him under the supervisory control of Coordinator Beverly Grimshaw; or in the alternative, that Plaintiff be awarded front pay in consideration of future earning potential.
 - (d) punitive damages be awarded in an amount determined appropriate by this Honorable Court to deter Defendants and other entities from engaging in and/or allowing others under their management/control to engage in the type of conduct and/or actions as committed against the Plaintiff in this matter;
 - (e) that Defendants be held accountable for their actions and sanctioned accordingly; and
 - (f) for such other and further relief as is deemed just and equitable by this Court.

VI. MONEY DAMAGES:

A) Do you claim either actual or punitive monetary damages for the acts alleged in this complaint?

YES [☒]

NO [☐]

B) If your answer to "A" is YES, state below the amount claimed and the reason[s] you believe you are entitled to recover such monetary damages:

to be determined with assistance of legal
counsel assigned to Plaintiff
(also see answers/attachments to
paragraphs IV. and V. of this Complaint)
Estimated amount ~~to~~ be determined when
met with Attorney, - ~~Set to \$100,000~~
Please See Attachments

VII. Do you maintain that the wrongs alleged in the complaint are continuing to occur at the present time?

YES [☒]

NO [☐]

VIII. Are you requesting a Jury Trial?

depends on what attorney recommends when
assigned

YES [☐]

NO [☒]

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 9 day of January, 2013



Signature of Plaintiff[s]